IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3562 of 2005

Between:

Smt. Ch. Rajani Bharathi, W/o. Ramesh,
Narsampet Gram Panchayat, District Warangal.

... PETITIONER

AND

1 The District Panchayat Officer, Warangal District.
2 Executive Officer (PR &RD), Narsampet, Warangal District.
3 Mandal Perishad Developmetn Officer, Narsampet Mandal, Warangal District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an Order, Direction or Writ more particularly one in the nature of Writ of Mandamus declaring the proceedings bearing No. 3257/2004/A2 dated 02-02-2005 issued by the 1st Respondent, freezing the cheque drawing powers fo the Petitioner herein, as illegal, arbitrary, contrary to the provisions of the Act, capricious, without any sanction of law and violative of Principles of Natural and Fundamental Rights guaranteed under the constitution of India.

Counsel for the Petitioner: MR.P.PURUSHOTHAM REDDY

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3562 OF 2005

ORDER :

The petitioner was elected as Sarpanch of Narsampet Gram Panchayat, Warangal District in the year 2001. On a compliant dated 2-8-2004 made by the Upa-sarpanch and some of Ward Members of the Gram Panchayat alleging certain irregularities, the District Collector, Warangal passed an order on 4-9-2004 freezing the cheque drawing powers of the petitioner. Aggrieved by the same, the petitioner filed W.P.No.16523 of 2004. This Court, by order dated 17-11-2004 allowed the said writ petition holding that the District Collector being an appellate authority cannot usurp the jurisdiction of the original authority and as such he cannot freeze the cheque drawing powers of the petitioner. Accordingly, the order dated 4-9-2004 was set aside granting liberty to the respondents to proceed in accordance with law by issuing fresh orders. Subsequently, six members of the Gram Panchayat made a fresh compliant dated 1-2-2005 levelling various allegations against the petitioner. On the basis of the same, the 1st respondent – District Panchayat Officer issued the impugned proceedings dated 2-2-2005 freezing, with immediate effect, the cheque drawing powers of the petitioner pending finalisation of the enquiry until further orders. The said order is under challenge in this writ petition on various grounds.

I have heard the learned Senior Counsel Sri Malla Reddy appearing for the petitioner and the learned Government Pleader for Panchayat Raj appearing for the respondents.

The learned Government Pleader at the outset raised an objection as to the maintainability of the writ petition on the ground that against the said order an alternative remedy is available by way of Appeal to the District Collector under Rule 42(2) of the Rules made under G.O.Ms.No.30, dated 20-01-1995.

However, the learned Senior Counsel for the petitioner vehemently contends that the impugned order which is apparently non-speaking order and was passed without affording any opportunity to the petitioner to explain the allegations is in violation of the principles of natural justice and therefore notwithstanding the availability of the alternative remedy, the petitioner is entitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

It is to be noted that under Rule 42 (1) of the Rules made in exercise of the powers under Section 268(2) of the A.P. Panchayat Raj Act, 1994 in G.O.Ms.No.30, PR, RD & R., dated 20-1-1995, the District Panchayat Officer is empowered to prohibit any executive authority from drawing the monies of the Gram Panchayat for such period as may be specified in such order. As per the second proviso, the District Panchayat Officer is also competent to issue an interim direction to the Executive Authority not to draw the monies of the Gram Panchayat pending exercise of the power under Sub-rule (1) of Rule 42. It is not in dispute that the impugned order is passed as an interim measure pending enquiry into the allegations of misappropriation of funds by the Sarpanch, but not as a measure of punishment under Sub-Rule (1) of Rule 42. Hence, I am unable to hold that the said order is bad for want of prior notice to the petitioner.

So far as the other contentions raised by the petitioner on merits, I am not inclined to express any opinion since an alternative remedy of Appeal is available against the impugned order. If the petitioner is aggrieved, it is open to him to work out the remedy of Appeal as available under the law, but he cannot maintain this writ petition without exhausting the said alternative remedy.

Accordingly, granting leave and liberty, the Writ Petition is disposed of. No costs.

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07th March, 2005.

Gbs

To

1 The District Panchayat Officer, Warangal District.
2 Executive Officer (PR &RD), Narsampet, Warangal District.
3 Mandal Perishad Developmetn Officer, Narsampet Mandal, Warangal District.

4 Two C.Cs. to the G.P. for Panchayat Raj, High Court Buildings, Hyderabad. (O.U.T.)

5 Two C.D. copies.